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PART II.

JUDICIAL DEPARTMENT.

IN THE CHIEF COURT OF MYSORE AT BANGALORE.

CRIMINAL SIDE.

Rule of Practice No. 86, dated 12th April 1913.

The following rules framed by the Chief Court under Section 554 of the Code of Criminal Procedure and Circular Letters Nos. 91 and 182, dated 18th February 1891 and 23rd August 1910 respectively, in supersession of Rule of Practice No. 77, dated 7th December 1907, in regard to the arrangement, custody, preservation and destruction of records of Criminal Proceedings of Courts subordinate to the Chief Court and which have received the sanction of Government, shall come into force from 1st July 1913 :—

SECTION I.

Arrangement of Records.

1. These rules have been framed not only for the purpose of securing a proper arrangement of the papers in files for deposit in the record-room and for their separation for the purposes of destruction, but also to lay down a systematic method of arrangement of the papers in the files for the convenience of Courts of appeal and revision.

A. Records of Courts of Session.

2. Every record of a Court of Session shall consist of two files to be styled and marked respectively File A and File B.

3. File A shall contain the following papers which shall be arranged in the following order :—

(1) Title page.

(2) Table of contents.

(3) Order sheet.

(4) The charge, amended or otherwise under which the trial has been held with a record thereon that it has been read and explained to the accused, and the plea of the accused.

(5) Papers showing how the proceedings were initiated, *e.g.*, the petition of complaint, the first information to the Police, or the order of the Magistrate under Section 190 (1) (*c*) of the Criminal Procedure Code on which the proceedings were taken, the final report of the Police under Section 173 of the Code, together with any sanction granted under Section 195, Section 196 or Section 197 of the Code.

(6) Applications for detention in Police custody under Section 167 of the Code and the orders thereon.

(7) Lists referred to in sub-sections (2) and (4) of Section 103 of the Code.

(8) Any document connected with the offence charged or in respect of which the charge is made, *e.g.*, statements made by the accused which form the subject of a charge of giving false evidence, document said to be forged, etc.

(9) Any map or plan showing the scene of the offence.

(10) List of articles connected with the offence which have been proved and exhibited but which cannot be attached to the record, *e.g.*, any weapons used in the commission of any offence against the person, stolen property in an offence against property, counterfeit coin and materials for counterfeiting, etc.

(11) Documents admitted in evidence on behalf of the prosecution.

(12) Deposition of a Medical witness admitted under Section 509 of the Code.

(13) Report of the Chemical Examiner or Assistant Chemical Examiner to Government admitted under Section 510 of the Code.

(14) The examination of the accused referred to in Section 287 of the Code and any confession or statement of the accused recorded under Section 164 of the Code and admitted in evidence.

(15) (*a*) The depositions of the witnesses for the prosecution examined at the trial in chronological order, except that when a witness has been cross-examined or re-examined at a later stage of the proceedings, such cross-examination or re-examination shall be attached to his original deposition;

(*b*) The depositions of witnesses who are absent at the trial, which are admitted under Section 33 of the Evidence Act or Section 512 of the Code, depositions of witnesses taken on commission, dying declarations admitted in evidence and depositions treated as evidence under Section 288 of the Code.

Note.—When a witness has been cross-examined under Section 145 of the Evidence Act, for the purpose of contradicting him as to previous statements made by him in writing or reduced into writing, such statements shall be filed in the record immediately after the depositions of the witnesses to which they relate.

(16) The examination (if any) of the accused before the Sessions Court.

(17) Any written defence that may be put in by the accused.

(18) Documents admitted in evidence on behalf of the accused.

(19) The depositions of the witnesses examined for the defence in chronological order.

(20) (*a*) In a case tried by jury—

(*a*) the Judge's charge to the jury;

(*b*) the verdict of the jury and record of any questions which the Judge may have asked the jury, to ascertain what their verdict was together with the answers thereto

(*c*) if the Judge accepts the verdict, the final judgment of conviction or acquittal and the sentence or order of discharge; or, if the Judge disagrees with the verdict and refers the case to the Chief Court under Section 307 of the Code, the record of the grounds of his opinion.

In the latter case the final order of the Chief Court shall be filed after the record of the opinion of the Sessions Judge.

(*ii*) In a case tried with the aid of assessors—

(*a*) the opinions of the assessors recorded separately in full;

(*b*) the judgment and final order.

(21) If the trial involves a charge of previous convictions, the evidence for the prosecution to prove such convictions and the evidence (if any) for the defence; and thereafter the verdict of the jury or the opinions of the assessors, as the case may be, and the final judgment or order as provided in clause (20).

(22) Bonds for keeping the peace under Section 106 of the Code.

The following papers shall be subsequently added to complete the record:—

(23) Copy of the judgment or order of the Appellate or Revisional Court.

(24) Warrant returned after execution of sentence and all proceedings relating to the realization of fines.

(25) Copy of any order by His Highness the Maharaja remitting the sentence in whole or in part.

4. File B shall contain—

(1) Title page,

(2) Table of contents, and

(3) All other papers not included in File A.

B. Magistrates' Records.

(*a*) WARRANT CASE.

5. The record of every warrant case tried by a Magistrate shall consist of two files to be styled and marked respectively File A and File B.

6. File A shall contain the following papers which shall be arranged in the following order:—

(1) Title page.

(2) Table of contents.

(3) Order sheet.

(4) Papers showing how the proceedings were initiated, *e.g.*, the petition of complaint, the first information to the Police or the order of the Magistrate under Section 190 (1) (*c*) of the Criminal Procedure Code on which the proceedings were taken, the final report of the Police under Section 173 of the Code, together with any sanction granted under Section 195, Section 196 or Section 197 of the Code, Section 24 of the Mysore Arms Regulation, Section 70 of the Mysore Stamp Regulation, etc.

(5) Applications for detention in Police custody under Section 167 of the Code and the orders thereon.

(6) Lists referred to in sub-sections (2) and (4) of Section 103 of the Code.

(7) Any document connected with the offence charged or in respect of which the charge is made, *e.g.*, statements made by the accused which form the subject of a charge of giving false evidence, etc.

(8) Any map or plan showing the scene of the offence.

(9) List of articles connected with the offence which have been proved and exhibited, but which cannot be attached to the record, *e.g.*, any weapons used in the commission of an offence, stolen property, etc.

(10) Documents admitted in evidence on behalf of the prosecution.

(11) Report of the Chemical Examiner or Assistant Chemical Examiner to Government admitted under Section 510 of the Code.

(12) Any confession or statement made by the accused before trial and recorded under Section 164 of the Code.

(13) (*a*) The depositions of the witnesses for the prosecution examined at the trial in chronological order, except that when a witness has been cross-examined or re-examined at a later stage of the proceedings, such cross-examination or re-examination shall be attached to his original deposition.

(*b*) The depositions of witnesses who are absent at the trial which are admitted under Section 33 of the Evidence Act or otherwise.

(14) The examination of the accused under Section 342 of the Code and any written statement put in by the accused during the trial.

(15) The charge with a record thereon that it has been read and explained to the accused, and the plea of the accused.

(16) Documents admitted in evidence on behalf of the accused.

(17) The depositions of the witnesses examined for the defence in chronological order.

(18) The judgment, finding and sentence.

(19) Bonds for keeping the peace under Section 106 of the Code.

The following papers shall be subsequently added to complete the record:—

(20) Copy of the judgment or order of the Appellate or Revisional Court.

(21) Warrant returned after execution of sentence and all proceedings relating to the realization of fines.

(22) Copy of any order by His Highness the Maharaja remitting the sentence in whole or in part.

7. File B shall contain—

(1) Title page,

(2) Table of contents, and

(3) All other papers not included in File A.

(*b*) SUMMONS CASE.

8. The record of every summons case tried by a Magistrate shall consist of two files, to be styled and marked respectively, File A and File B.

9. File A shall contain the following papers which shall be arranged in the following order:—

(1) to (4) as in warrant case.

(5) Statement made by the accused under Section 243 of the Code.

(6) List of articles connected with the offence which have been proved and exhibited, but which cannot be attached to the record.

(7) (*a*) The depositions of the witnesses for the complainant examined at the trial in chronological order, except that when a witness has been cross-examined or re-examined at a later stage of the proceedings, such cross-examination or re-examination shall be attached to his original deposition.

(*b*) The depositions of witnesses who are absent at the trial which are admitted in evidence under Section 33 of the Evidence Act or otherwise.

(8) The examination of the accused under Section 244 of the Code.

(9) The depositions of the witnesses examined for the defence in chronological order.

(10) The judgment, finding and sentence.

The following papers shall be subsequently added to complete the record:—

(11) Copy of the judgment or order of the Appellate or Revisional Court.

(12) Warrant returned after execution of sentence by the Jail authorities and all proceedings relating to the realization of fines.

10. File B shall contain—

(1) Title page,

(2) Table of contents, and

(3) All other papers not included in File A.

(*c*) INQUIRY.

11. The record of every inquiry made by a Magistrate shall consist of two files to be styled and marked respectively File A and File B.

12. The following papers shall be included in File A in the following order:—

(1) to (14) as in warrant case.

(15) Order of the Magistrate—

(*a*) discharging the accused, or

(*b*) framing the charge.

(16) List of witnesses put in by the accused under Section 211 of the Code.

(17) The order of the Magistrate committing the accused for trial.

(18) Any further proceedings the Magistrate may take in the case.

Note.—It is not necessary to replace by certified copies such papers as are transferred from the record of the Magistrate to the record of the Sessions Court. All that is required is that a note be made in the commitment record showing what papers have been transferred to the Sessions record and giving the number and year of the Sessions trial.

13. File B shall contain—

(1) Title page,

(2) Table of contents, and

(3) All other papers not included in File A.

(*d*) SUMMARY TRIALS.

14. In cases tried summarily the A File should contain only the form of summary trial kept under Section 263 or Section 264 of the Code, and whatever else the Court may record under the provisions of those sections; all other papers connected with the trial shall be placed in the B File. In the case of such records no title page, table of contents or order-sheet need be prepared.

(*e*) MISCELLANEOUS INQUIRIES.

15. The rules relating to the records of summons cases shall apply to the records of inquiries under Section 107 of the Code and to such other proceedings as, under the Code, the procedure applicable to summons cases applies; and the rules relating to the records of warrant cases shall apply to the records of inquiries in other cases, with such modifications in details as the circumstances of such cases may require.

C. Records of Appellate and Revisional Courts.

16. The record of the Appellate or Revisional Court shall be arranged in the same way as that of the Court of original jurisdiction except that there shall be no separate B File, the papers which would belong to the B File being attached to the A File.

D. Exhibits.

(*a*) *Documents exhibited as evidence.*

17. When a document is admitted in evidence it shall be marked by the Court in the manner described in Rule 19 and shall be entered in the list referred to in Rule 18.

18. A list of the documents admitted in evidence on behalf of the prosecution and another of documents admitted in evidence for the defence shall be prepared by the Court Munshi and signed by the Judge./Magistrate. The documents shall be entered in these lists in the order in which they are admitted and marked.

List of documents admitted in evidence for the prosecution./defence.

Distinguishing mark and number	Description of document	By whom filed	Date of admission	Remarks
1	2	3	4	5

Signature of the Judge./Magistrate.

19. The Court shall mark the documents which are admitted on behalf of the prosecution in the order in which they are admitted, thus :—

Exhibit P_1, Exhibit P_2, etc.

Similarly the documents admitted for the defence shall be marked Exhibit D_1, Exhibit D_2, etc.

20. Whenever a document admitted in evidence is withdrawn, whether before or after judgment, a note of the fact shall be made in the column of remarks, stating also whether a copy has or has not been substituted.

21. Exhibits are not to be shown in the table of contents. The lists which are attached to them will alone be shown in this table and will bear serial and sheet numbers.

(b) Articles exhibited as evidence.

22. When any article connected with the offence charged is produced in a Criminal Court, and after being proved, is admitted in evidence, it shall be marked by the Court thus :—

Article 1, Article 2, etc.

23. A list of such articles admitted in evidence shall be prepared by the Court Munshi and signed by the Judge./Magistrate. The articles shall be entered in the list in the order in which they are admitted and marked.

List of articles connected with the offence admitted in evidence :—

Distinguishing number	Description of article	Weight, size, value and such other details as may be required	By whom produced	Date of admission	Remarks
1	2	3	4	5	6

Signature of the Judge. / Magistrate.

24. In Sessions cases the Sessions Judge may either transfer the Committing Magistrate's list to the Sessions record and use it as his own list or he may prepare a fresh list. In the latter case he should be careful to use the same number for each article which has been used by the Committing Magistrate.

25. Pending the completion of a trial or inquiry, the articles in evidence will remain in the custody of the Nazir except when they consist of money or valuables. In the latter case the articles will be sent, to the treasury for safe custody.

26. No article which has been admitted in evidence shall be returned or destroyed until the period for appeal is expired or until, if an appeal is preferred, the appeal has been disposed of.

27. Whenever an article which has been admitted in evidence is returned, destroyed or otherwise disposed of, a note of the fact shall be made in the column for remarks.

E. General Rules.

28. In every case papers shall, as far as possible, be attached to the file to which they belong, as the trial proceeds and shall be arranged in the order in which they are brought before the Court.

29. The distribution of papers into the proper files must in all cases be made before the record is deposited in the record-room, the object being to avoid the necessity of sorting papers in the record-room.

30. To each file of every record shall be prefixed a title page in the following form :—

Title page.

File .

In the Court of the of

Case No. of 191 .

Complainant. / Applicant.

Versus

Accused.
Opposite party.

Section of the Penal Code or other law.
Date of the decision of the Original Court.
Date of the decision of the Appellate or Revisional Court.

31. Prefixed to each file there shall be a table of contents in the following form which shall be written up in the manner indicated below :—

Table of contents.

In the Court of the of
Case No. of 191 .

Complainant.
Applicant.
Accused.
Opposite party.

Serial number of paper	Sheets	Description	Value of Court-fee stamp	Period for which to be preserved	Remarks
1	2	3	4	5	6
1	1—3	Order sheet			
2	4—5	Petition of complaint ...	8 as.		
3	6—8	Confession of accused before trial			
4	9	Charge			
5	10—12	Judgment			
6	13—14	Copy of the order of Appellate Court			

Compared and found correct.

Signed
Court Munshi. *Record-keeper.*

Column 1 will give the consecutive number of the different papers in the file. The sheets in the file shall be numbered consecutively and column 2 which should be kept blank until, and filled in after, the file is complete, will give the consecutive numbers of the sheets. Columns 1, 3 and 4 will be filled in as the trial proceeds and in column 5 the Record-keeper will enter the number of years for which each paper on the record is to be preserved according to the rules for the preservation and destruction of records.

SECTION II.

The Transmission of Records to the Record-room.

32. The records of Sessions Judges and Assistant Sessions Judges will be kept in the Central Record-rooms.

33. The records of Amildar-Magistrates will be kept in the Record-rooms of the taluk.

34. In the case of other Magistrates (including Munsiff-Magistrates) the records of all cases disposed of in each Court shall be retained in that Court for a period of six clear months after disposal. At the commencement of the seventh month the records will be forwarded to the District Record-room.

35. Each monthly bundle of records will be accompanied by lists showing the disposal of (1) regular cases, (2) miscellaneous cases, (3) appeals and (4) revisions during the month. The particulars of all cases disposed of must be entered in the lists and when for any reason a record is kept back, a note to that effect shall be

36. The lists shall be in the following form:—

List of ... { Regular Cases / Miscellaneous Cases / Appeals / Revisions } disposed of in the Court of the ... of during the month of ... 191 ..

Serial number of disposal	Date of disposal	Serial number in Court register with year	Name of complainant, applicant or appellant	Name of accused, opponent or respondent	Remarks
1	2	3	4	5	6

Note.—The serial number (column 1) is an annual number and will correspond with the number in column 1 of the Record-room register.

37. On the arrival of the records in the Record-room the Record-keeper will ascertain that the records correspond with those entered in the lists, that the contents of each file correspond with the table of contents, that the papers bear the Court-fee stamps shown in such table and that the stamps have been duly cancelled. He shall also cause the stamps to be again punched with the triangular punch provided for that purpose.

38. The Record-keeper shall bring to the notice of the Sessions Judge or District Magistrate (as the case may be) any irregularities that may have occurred in connection with the arrangement or despatch of the records or in regard to the cancellation of the stamps.

39. When a record is removed from the Record-room for any purpose, the Record-keeper will enter in his register a note of the number of the case, the names of the parties, the designation of the Court or officer to which or to whom the record is sent and the date of its removal. On the return of the record, the Record-keeper will note in the same register the date of the return.

40. The following registers will be maintained in every Record-room :—

I and II. "From" and "To" registers.

III. Registers of records received.

IV. Register of records removed from the Record-room.

41. Registers Nos. III and IV will be maintained in the following form :—

REGISTER OF RECORDS RECEIVED.

Serial number of disposal	Date of disposal	Serial number in Court register with year	Name of complainant, applicant or appellant	Name of accused, opponent or respondent	Dates of destruction of files
1	2	3	4	5	6

Note.—A separate register will be maintained for each Court from which records are received and separate pages in the register will be set apart for each class of cases.

REGISTER OF RECORDS REMOVED FROM THE RECORD-ROOM.

Number of case with name of Court and year	Names of parties	To whom sent	Date of despatch with number in "To" register	Date on which the record was returned
1	2	3	4	5

SECTION III.

The Preservation and Destruction of Records.

42. The documents contained in File A may be destroyed on the expiry of the periods respectively prescribed in Appendix I with reference to such documents. Provided that Sessions Judges and District Magistrates may at their discretion preserve permanently or for a longer period any papers which they may consider likely to be useful in the future.

43. Every B File will be destroyed on the expiry of two years from the date of the decision to which it belongs, provided that where an appeal from the decision is preferred, the file shall not be destroyed until the expiry of two years from the date of the final judgment or order.

44. Criminal registers, statements and other papers will be kept for the periods shown in Appendix II and then destroyed.

45. The destruction of records, etc., in accordance with these rules shall be effected by burning in the presence of the Record-keeper. A note of every file destroyed shall be made at the time of destruction in the Record-room register and shall be initialled by the Record-keeper.

46. On the judgment or order in any case becoming final, notice shall be given to the person by whom any document admitted and used in evidence was brought into Court or to his pleader, requiring him to take it into his own keeping within six months from the date of the notice, failing which the document will be destroyed when the record to which it relates is destroyed. The notice shall be in the following form :—

Notice to take back documents.

In the Court of

Case No. of 191 .

Complainant.

Applicant.

Versus

Accused

Opposite party.

The parties in the above case are hereby required to take back into their custody, within six months from the date hereof, the documents now in the custody of the Court, filed by them as evidence in the above case, the judgment (or order) having now become final. The parties are distinctly warned that the documents

are kept at their own risk and that the Court from this date declines all responsibility for their safe custody, and that, if not taken back, they will be destroyed when the record is destroyed.

Dated the day of 191 .

Presiding Officer.

A copy of the notice shall be put up in the Court in which the case was tried.

47. When returning documents care must be taken that any document which the Court has impounded shall not be delivered out of the custody of the Court.

APPENDIX I.

The period for which File A of criminal records shall be preserved, such period being calculated from the date of the final judgment or order in the case, shall be as follows:—

(*a*) Sessions cases resulting in the conviction of the accused. (*b*) Non-bailable Magistrates' cases resulting in the conviction of the accused .... (*c*) Proceedings under Section 108, Section 109 and Section 110 of the Criminal Procedure Code .... (*d*) Appeals and applications for revision in respect of cases referred to in clauses (*a*), (*b*) and (*c*)	20 years.
(*e*) Possession cases under Chapter XII of the Code .... (*f*) Security cases under Chapter VIII of the Code other than those referred to in clause (*c*) .... (*g*) Appeals and applications for revision in respect of cases referred to in clauses (*e*) and (*f*)	6 years.
(*h*) Other Miscellaneous cases .... (*i*) Magistrates' bailable cases resulting in conviction .... (*j*) Appeals and applications for revision in respect of cases referred to in clauses (*h*) and (*i*) .... (*k*) Cases in which the accused has been acquitted or discharged .... (*l*) Cases in which the accused has been executed under a capital sentence	3 years.

Provided that the following records and parts of records shall not be liable to destruction, *viz.*:—

(1) The record of any case in which the sentence is not expired.

(2) The record of any case in which any of the accused or parties proceeded against has not been apprehended.

(3) In cases in which the accused has been convicted of an offence a repetition of which renders the offender liable to enhanced punishment or to whipping as an additional punishment, the following papers:—

(*a*) The title page.

(*b*) The charge.

(*c*) The judgment, finding and sentence.

(*d*) Copy of the judgment or order of the appellate or revisional Court.

(4) The record of any case in which an order for maintenance has been made under Section 488 of the Criminal Procedure Code.

Note.—The records referred to in this proviso may however be destroyed when all the persons, on whose account they have been preserved, are known to be dead.